REMARKS

Claims 1-20 are pending in the application. Applicant respectfully requests reconsideration of this application.

Rejection of Claims 1-4, 7-9, 12-13, and 15-18 under 35 U.S.C. § 103 (a) as being unpatentable over US 6078568 (Wright) in view of US 5740167 (Taketsugu)

Applicant respectfully traverses the rejection of claims 1-4, 7-9, 12-13, and 15-18. Reconsideration is respectfully requested.

Applicant respectfully submits that the combination of Wright and Taketsugu does not show or suggest all the claim limitations as set forth in independent claims 1 and 7. For example, independent claim 1 recites "at a subscriber…during the step of transmitting, tracking a number of collisions on the data channel until the number of collisions reaches a threshold value indicating that the subscriber is unable to acquire sufficient bandwidth on the data channel due to collisions with other transmitting subscribers on the data channel… when the number of collisions reaches the threshold value thereby indicating that the data channel is fully utilized, transmitting a reassignment request to move to a new data channel" and independent claim 7 recites "receiving a reassignment request from a subscriber to move from a first data channel" and "upon receipt of the reassignment request by a central processor, assuming that the first data channel is loaded and the subscriber is unable to acquire sufficient bandwidth on the first data channel" which are not taught or suggested in the combination of Wright and Taketsugu.

The Office Action on page 3 states that "Regarding claim 1, Wright discloses a method (fig.4 and Fig. 21) comprising the steps of: at a subscriber: transmitting data on a data channel (Col. 4, lines 56 -58, which recites each subscriber transmits on the associated reverse channel); during the step of transmitting, tracking a number of collisions (Fig. 21, 132, where the calculating of collision rates is considered as the tracking number of collisions) on the data channel until the number of collisions reaches a threshold value indicating that the subscriber is unable to acquire sufficient bandwidth on the data channel due to collisions with other

transmitting subscribers on the data channel (Col. 4, lines 52 - lines 68 Col.6, lines 34 -39, Col. 7, lines 5 -29 and Col. 24, lines 62 -68, where the collision rate exceeds a desire level is considered as the number collision reaches a threshold value, and identifying a congested multiple access so that the traffic may routed to less heavily utilized channel is considered as the subscriber is unable to acquire sufficient bandwidth on the data channel due to collisions with other transmitting subscribers)." This analogy is, however, a mischaracterization of Wright.

Wright is directed towards a dynamic access control method for a multiple access communication network. Wright's subscriber device wishing to transmit a data packet on the reverse channel receives the broadcast dynamic access control parameter from a base station on the network, generates an access control limit value and only attempts to transmit the data packet if the access control limit value satisfies the received dynamic access control parameter. See Wright, Abstract. First of all, Wright teaches detecting the number of collisions on the reverse channel by the base station. See Wright, col. 24, lines 62-65. In contrast, Applicant's claim 1 explicitly describes performing "tracking a number of collisions" at the subscriber. Moreover, in Wright, if a subscriber device wants to transmit data to the base station, then the subscriber device first has to obtain the latest value of Ptx and then transmit the data if certain conditions are satisfied. The value of Ptx is calculated by the base station based on the success and collision rate of a reverse channel. Therefore, in Wright "tracking the number of collisions on a data channel" is done before "the step of transmitting." In contrast, Applicant's claim 1 clearly recites "during the step of transmitting, tracking a number of collisions on the data channel." Therefore, Wright does not show or suggest "at a subscriber… during the step of transmitting, tracking a number of collisions on the data channel…" as recited by Applicant's claim 1.

The Office Action on page 4 further states that "Regarding claim 1... Wright fails to explicitly mention when the number of collisions reaches the threshold value, transmitting a reassignment request to move to a new data channel. However, Taketsugu teaches a method to select a new data channel when the packet collisions exceed a critical value as described the instant application (Fig. 5 and Col. 12, lines 36 - 39,)." This analogy is, however, a mischaracterization of Taketsugu.

Taketsugu also fails to teach or suggest the above limitation. Taketsugu discloses determining whether an error rate in a packet exceeds a threshold value <u>at a base station</u> and if the error rate exceeds a critical value, the base station sends a "select new channel signal" to the subscribers. See Taketsugu, col. 5, lines 1-3 and col. 12, lines 36-39. Taketsugu does not disclose determining the number of collisions on the data channel <u>at a subscriber</u> and transmitting a reassignment request by the subscriber. Thus, Taketsugu does not show or suggest "<u>at a subscriber</u>… when the number of collisions reaches the threshold value, <u>transmitting a reassignment request to move to a new data channel</u>" as recited by Applicant's independent claim 1.

The Office Action on pages 6 and 7 states that "Regarding claim 7, Wright discloses a method comprising the steps of: receiving a reassignment request from a subscriber to move from a first data channel; and upon receipt of the reassignment request, assuming that the first data channel is loaded (Col.4, lines 52 - lines 68, Col. 6, lines 34 -39, Col. 7, lines 5 -29 and Col. 24, lines 62 - 68 identifying a congested multiple access so that the traffic may routed to less heavily utilized channel is considered as the data is loaded). Wright also discloses the dynamic access parameter is adjusted to optimize channel utilization based upon a determined success rate and collision rate for the multiple access channel of the communication network (Col. 7, lines 24-30, which is considered as the number of collisions reaches the threshold value thereby indicating that the data channel is fully utilized), Wright fails to explicitly mention when the number of collisions reaches the threshold value, transmitting a reassignment request to move to a new data channel. However, Taketsugu teaches a method to select a new data channel when the packet collisions exceed a critical value as described the instant application (Fig. 5 and Col. 12, lines 36 - 39)." This analogy is, however, a mischaracterization of Wright as well as Taketsugu.

As explained earlier, Wright is directed towards a dynamic access control method for a multiple access communication network. Wright teaches regulating access to the reverse channel by increasing the number of transmission attempts by subscriber devices which are prevented, if the collision is more and increasing the percentage of transmission attempts by subscriber devices which are allowed, if the collision on a reverse channel is less. See Wright, col. 4, line 56 - col. 5, line 14. Taketsugu also clearly discloses sending a "select new channel signal" to the

subscribers by the base station, when the error rate exceeds a critical value at the base station. See Taketsugu, col. 5, lines 1-3 and col. 12, lines 36-39. Therefore, neither Wright nor Taketsugu teaches receiving a reassignment request from a subscriber to move from a first data channel. Subsequently, because Wright and Taketsugu do not teach "receiving a reassignment request," they also do not teach taking any further action or assuming anything "upon receipt of the reassigment request." Therefore, Wright and Taketsugu do not show or suggest "receiving a reassignment request from a subscriber to move from a first data channel" and "upon receipt of the reassignment request by a central processor, assuming that the first data channel is loaded and the subscriber is unable to acquire sufficient bandwidth on the first data channel" as recited by Applicant's claim 7.

Further, Applicant respectfully submits that Wright and Taketsugu taken alone or in combination do not teach or suggest the features as set forth in Applicant's dependent claims. Applicant respectfully disagrees with the statement on page 5, of the Office Action that "Regarding claim 3… Taketsugu discloses the reassignment request is transmitted on a control channel (Abstract, the base station responses to user request on the control channel (control mode) when the base receives packets with a high error rate due to collision as described by the instant application)." Applicant respectfully asserts that this analogy is a mischaracterization of Taketsugu. Taketsugu fails to disclose the above limitation. In Taketsugu the "controlled access mode" is used to indicate a status of the data channel and not the status of a physically or logically independent data channel. In Taketsugu, multiple terminals transmit to a base station on a common channel on a "random access mode." When the error rate of the packets received at the base station becomes high, some specified terminals are allowed to transmit the packets on "a controlled access mode." See Taketsugu, Abstract. Thus, Taketsugu does not show or suggest "the reassignment request is transmitted on a control channel" as recited by Applicant's dependent claim 3.

For the above reasons, Applicant submits that independent claims 1 and 7 are not obvious in view of the combination of Wright and Taketsugu, and therefore that the rejection of claims 1 and 7 under 35 USC 103(a) should be withdrawn. Applicant requests that claims 1 and 7 now be passed to allowance.

Dependent claims 2-4, 8-9, 12-13, and 15-18 depend from, and include all the limitations of independent claims 1 and 7. Therefore, Applicant respectfully requests the reconsideration of dependent claims 2-4, 8-9, 12-13, and 15-18 and requests withdrawal of the rejection.

Rejection of Claims 5, 6, 10, 11, and 14 under 35 U.S.C. § 103(a) as being unpatentable over US 6078568 (Wright) in view of US 5740167 (Taketsugu) and further in view of US 6222850 (Johnson)

As mentioned above, Applicant respectfully submits that Wright and Taketsugu do not disclose "at a subscriber… during the step of transmitting, tracking a number of collisions on the data channel…" and "at a subscriber… when the number of collisions reaches the threshold value, transmitting a reassignment request to move to a new data channel." Johnson fails to overcome the deficiency of Wright and Taketsugu in that Johnson also does not show or suggest the above-mentioned limitation.

Johnson describes a method for calculating the percentage of data packets that were transmitted with collisions over a defined time interval, typically 4 seconds. See Johnson, col. 4, lines 62-64. Applicant's dependent claims 5 and 6 provide further limitations to the threshold value recited in independent claim 1. Johnson does not disclose tracking the number of collisions until the number of collisions reaches a threshold value. Instead, Johnson discloses calculating the number of collisions over a time interval. Thus, Johnson fails to disclose such limitations.

Moreover, Taketsugu suggests a method of switching between two different data transmission types. The first type "Random Access Mode" allows for efficient data transfer. However, it can "starve" a mobile station of data transmission while another mobile station has full access to data transmission. In Random Access Mode, one mobile station monopolizes the channel. The second type "Polling Access Mode" (or controlled access mode) is less efficient at data transfer, but ensures that each mobile station gets a chance to transfer some data. Taketsugu determines when to switch between these modes of data transmission based on the error rates. Taketsugu switches back to the mode of data transmission which offers the highest data

throughput efficiency. See Taketsugu, col. 5, lines 16-42. Whereas, Applicant's claim 11 describes disregarding the incoming data rate at which the reassignment request was received, if the incoming data rate is significantly lower than a value, which is not taught by Taketsugu.

None of the cited references taken individually or in combination teach or suggest that which is claimed by Applicant's invention. Claims 5, 6 and claims 10, 11, and 14 depend on what are believed to be allowable independent claims 1 and 7 and thus are in condition for allowance. Reconsideration and withdrawal of the rejection of claim 5, 6, 10, 11, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Wright in view of Taketsugu and further in view of Johnson is respectfully requested.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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